IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.501 OF 2006
IN
L.C. SUIT NO.1820 OF 1984

M/s.Omprakash & Co. ....Plaintiff
V/s.
M.R.Kowli & Ors. ....Defendants
And
M/s.Omprakash & Co. ....applicant

Mr.S.U. Kamdar, Senior Counsel i/b Mr.H.N. Thakore i/b M/s.Thakore Jariwala & Associates for the Plaintiff.

Mr.V.A. Gangal with Mr.S.M. Shettigar for Defendant Nos.1, 2, 4 and 5.

Mr.Clive D'Souza for Defendant Nos.8 and 9.

CORAM : S.J. VAZIFDAR, J.
DATED : 27TH SEPTEMBER, 2007.

P.C. :

1. The Chamber Summons has been taken out by the Applicant for amendment of the plaint inter-alia for brining the heirs on record, as the Plaintiff in place of the existing Plaintiff.

2. According to the Applicant, pursuant to the change in the constitution of the Plaintiff - firm by a deed of partnership dated 26.9.2005, she was made a partner of the Plaintiff. Thereafter by and pursuant to the deed of retirement dated 12.9.2002, the

Applicant retired from the Plaintiff - firm and under the said deed, the benefit of the suit agreement had been assigned to her.

3. Several disputes on merits have been raised by Mr.Gangal, the learned Counsel appearing on behalf of Defendant Nos.1, 2, 4 and 5. It was contended that the claim of the Applicant is barred by limitation. It was further contended that the assignment is impermissible and bad in law. Lastly, it was contended that the Plaintiff firm is not the same as the firm through which the Applicant claims a right.

4. The aforesaid disputes relate to the merits of the case. Needless to state that the order allowing the amendment does not affect the merits of the defences raised in any manner.

5. With the aforesaid clarification, the Chamber Summons is made absolute in terms of prayer (a). Needless to add that this order will only apply to the parties who are presently on record as Defendants namely all Defendants except Defendant Nos.3, 6, and 7. The amendment to be carried out within four weeks from today. The additional written statement to the amended plaint shall be filed within eight weeks if

the amended plaint being served on the Defendants.